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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 DAVID DRONE,
12 Petitioner,
13 v.
14 FEDERAL BUREAU OF PRISONS,
15 Respondent.
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No. 2:21-CV-0063-KJM-DMC-P

FINDINGS AND RECOMMENDATIONS

17 Petitioner, a federal prisoner proceeding pro se, brings this petition for a writ of
18 habeas corpus under 28 U.S.C. § 2241. Pending before the Court is Respondent's unopposed
19 motion to dismiss, see ECF No. 5.

20 Respondent argues the case should be dismissed because: (1) the Court lacks
21 statutory authority to compel the Bureau of Prisons to take discretionary action; (2) the Court
22 lacks jurisdiction because Petitioner's claim is not ripe; and (3) Petitioner cannot challenge the
23 conditions of his confinement by way of a habeas petition. See ECF No. 5. After Petitioner
24 failed to file an opposition within the time specified by the Local Rules, the Court issued a minute
25 order on September 17, 2022, advising Petitioner that failure to oppose the motion could be
26 construed as consent to the relief requested. See ECF No. 7. The minute order provided an
27 additional 30 days within which to file an opposition. See id. To date, Petitioner has not filed an
28 opposition, and the Court now construes Petitioner's failure to oppose Respondent's motion as

1 consent to the relief requested. See Local Rule 230(c), (l).

2 Based on the foregoing, the undersigned recommends that Respondent's
3 unopposed motion to dismiss, ECF No. 5, be granted.

4 These findings and recommendations are submitted to the United States District
5 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within 14 days
6 after being served with these findings and recommendations, any party may file written objections
7 with the Court. Responses to objections shall be filed within 14 days after service of objections.
8 Failure to file objections within the specified time may waive the right to appeal. See Martinez v.
9 Ylst, 951 F.2d 1153 (9th Cir. 1991).

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11 Dated: November 1, 2022



12 DENNIS M. COTA
13 UNITED STATES MAGISTRATE JUDGE
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